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May 17, 2021

**VIA ECF**

Honorable Madeline Cox Arleo, U.S.D.J.  
United States District Court  
Martin Luther King, Jr. Federal  
Building & Courthouse  
50 Walnut Street  
Newark, New Jersey 07102

Honorable Jessica S. Allen, U.S.M.J.  
United States District Court  
Martin Luther King, Jr. Federal  
Building & Courthouse  
50 Walnut Street  
Newark, New Jersey 07102

Re: *Pacira BioSciences, Inc. v. American Society of Anesthesiologists, Inc., et al.*  
Case No. 21-cv-9264-MCA-JSA

Dear Judge Arleo and Magistrate Judge Allen:

We write in response to Plaintiff's May 14, 2021 letter, in which Plaintiff states that it assumes that because it withdrew its motion for a preliminary injunction, there is no need to file either a motion to seal or redacted versions of the brief and exhibits that it filed under temporary seal. Plaintiff is mistaken. Local Civil Rule 5.3(c)(2)(iii) provides that if the motion relating to temporarily sealed materials "is resolved or otherwise terminated before all briefing is completed, the party filing such materials shall have a continuing obligation to file a motion to seal." Thus, Plaintiff must file a motion to seal even though its preliminary injunction motion is now withdrawn and terminated. Based upon Defendants' review of the materials Plaintiff filed under seal, Defendants do not agree that sealing those papers is proper, as nothing in Plaintiff's motion for a preliminary injunction meets the high standard for sealing. And if Plaintiff does not file a motion to seal by the deadline to do so—May 21, 2021, fourteen days after withdrawal of the preliminary injunction motion, *see* Local Civil Rule 5.3(c)(2)(ii)—the Court should unseal the subject brief and exhibits.

Further, Local Civil Rule 5.3(c)(4) requires a party that files documents under temporary seal to file redacted versions of those documents "within fourteen days following completion of the briefing on the underlying motion of materials sought to be sealed." Plaintiff must therefore file redacted versions of the documents filed under temporary seal within fourteen days of withdrawal of the motion for preliminary injunction (May 21, 2021).

Thank you for your consideration of this submission.

Respectfully submitted,



Kevin H. Marino

cc: All counsel of record